

Remarks

Claims 18-20 and 22-48 are pending in the present application and stand rejected. Claims 18 and 46 have been amended. Support for these amendments may be found at least at specification page 4. No new matter has been added.

Summary of Office Action

Claims 46-48 were rejected under 35 U.S.C. §112 as failing to comply with the written description requirement.

Claims 18-20 and 22-48 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,134,531 to Trewitt et al. (hereinafter "Trewitt") in view of U.S. Patent Application No. 2004/0177002 to Abelow (hereinafter "Abelow").

Claims 46-48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Trewitt in view of U.S. Patent Application No. 2004/0261127 to Freeman et al. (hereinafter "Freeman").

Interview Summary

Applicant wishes to thank the Examiner for the courtesy expressed to Applicant's representatives during the course of the telephonic interview on April 13, 2010. During the interview, Applicant's representatives argued that the claimed invention was novel and not

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obvious in view of the prior art. In particular, among other concepts, Applicant's representatives noted that the "multi-tiered query hierarchy" of claim 18 was not taught by the prior art. During the interview, agreement was not reached on any of the outstanding claims.

35 U.S.C. § 112

Claims 46-48 were rejected under 35 U.S.C. § 112 as failing to comply with the written description requirement. The Office Action alleges that the claims contain subject matter which was not described in the specification in a way to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention.

Specifically, the Office Action (page 2) alleges that there is no disclosure of using the geographic area of responders in order to make story line recommendations and customize the broadcast accordingly. However, page 25 of the specification as originally filed describes these features of claims 46-48. The section titled "Distinct Regional Subplots/Spin-Offs" teaches creating distinct regional subplots that have story lines that are uniquely generated and modified by regional viewers (specification page 25).

Accordingly, Applicant respectfully requests that this rejection be withdrawn.

35 U.S.C. § 103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007):

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

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Claims 18-20 and 22-48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Trewitt in view of Abelow.

Independent claim 18, as amended, recites in part, “said query provided to said member by way of a multi-tier question hierarchy comprising separate tiers of questions, each question assigned to a tier based on when chronologically the response generated by the question can be integrated into said story[.]” (Emphasis added). The Office Action cites Abelow paragraphs 0666 and 0681 to teach these features (Office Action page 4). Abelow discloses a system for receiving feedback from consumers regarding products or services in order to facilitate the future improvement of the product or service. The sections of Abelow cited by the Office Action describe that the invention uses an iterative dialog, instead of a one-time survey. For example, in the system of Abelow, the content of a second question could be determined by the answer to a first question. Indeed, the Office Action simply states that Abelow teaches “multiple follow-up questions during product development uses” (Office Action page 4). However, these multiple and/or iterative questions are not the same as a multi-tier question hierarchy comprising separate tiers of questions, each question assigned to a tier based on when chronologically the response generated by the question can be integrated into a story. (See specification pages 4-7 for detailed examples of the types of tiers that may be used as well as time-frames for integration for each of these tiers – such as, Editor-Driven Query, Director-Driven Query, Writer-Driven Query, and Online Request). These features of claim 18 take advantage of the unique production schedules of television shows, which much of the specification is directed to (see for example, pages 9-21). Abelow is not directed to television shows and therefore the unique tiered query system of claim

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18 would have no use in Abelow. Consequently, Abelow does not even remotely suggest such a system. The Office Action does not allege that Trewitt teaches these features, nor does it. Thus, the references, both singularly and in combination fail to teach or suggest these features.

Although page 3 of the Office Action included claims 46-48 under this rejection, the Office Action never went on to specify where these claims were taught, or even indicate that they were taught by these references. Furthermore, the Office Action fails to address the specific features of claims 19, 20, and 22. As set forth in MPEP § 2143.03, "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385. Accordingly, this rejection of claims 46-48, 19, 20, and 22 is improper.

Claims 46-48 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over Trewitt in view of Freeman.

Independent claim 46, as amended, recites features similar to those of claim 18 discussed above and is believed to be allowable for at least the reasons discussed above.

Furthermore, claim 46 recites in part, "a computer for making storyline recommendations based on said responses, said recommendations based on one or more geographic areas of said responders[.]" The Office Action alleges that Freeman, on paragraph 132, teaches "the viewers profile containing characteristics of the viewers, such as subscriber's location..." (Office Action page 7). However, this is a mischaracterization of Freeman. Freeman discloses "viewer profiles" which "contain characteristics of the particular viewer at that subscriber location, such as..." (Freeman paragraph 132). Freeman does not disclose viewer profiles containing the subscriber location, but rather, Freeman discloses profiles being created for each subscriber

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location, or each viewer at a particular subscriber location. The viewer profiles contain information such as the viewer's interests, hobbies, and sex (Freeman paragraph 132). The Office Action does not allege Trewitt teaches this feature, nor does it. Thus, the references, both singularly and in combination, fail to teach or suggest the above feature.

Applicant notes that the dependent claims contain additional limitations which are not taught by the prior art. However, Applicant believes the above amendments and remarks are sufficient to overcome the rejections of record. Applicant reserves the right to address the limitations of the dependent claims at a later date, if necessary.

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Conclusion

For at least the reasons given above, the rejection of claims 18-20 and 22-48 described above should be withdrawn and these claims allowed.

Please grant any required extensions of time and charge any fees due in connection with this submission to deposit account no. 20-1507.

Respectfully submitted,

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